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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 28 and 29

[Docket No. FWS-HQ-NWRS-2012-0086; FXRS12610900000-167-FF09R24000]

RIN 1018-AX36

Management of Non-Federal Oil and Gas Rights

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of record of decision.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), make available the final record of decision (ROD) on revising regulations governing non-Federal oil and gas activities on National Wildlife Refuge System lands in order to improve our ability to protect refuge resources, visitors, and the general public's health and safety from potential impacts associated with non-Federal oil and gas operations located within refuges. The Service has selected Alternative B, implementation of the final rule, Management of Non-Federal Oil and Gas Rights, which revises current Service regulations, as its final decision. This decision is described and analyzed in the final environmental impact statement and summarized in the ROD.

ADDRESSES: Copies of the ROD are available for public review at

<http://www.fws.gov/refuges/oil-and-gas/rulemaking.html> and at <http://www.regulations.gov> under Docket No. FWS-HQ-NWRS-2012-0086.

FOR FURTHER INFORMATION CONTACT: Scott Covington, U.S. Fish and Wildlife Service, Division of Natural Resources and Planning, MS: NWRS, 5275 Leesburg Pike, Falls Church, Virginia 22041; telephone 703-358-2427. If you use a telecommunications device for

the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339. Further contact information can be found on the Refuge’s Energy Program website at

<http://www.fws.gov/refuges/oil-and-gas/rulemaking.html>.

SUPPLEMENTARY INFORMATION:

Background

With this document, we announce the availability of the record of decision (ROD) for the final environmental impact statement (EIS) analyzing revisions to the Service’s regulations governing non-Federal oil and gas development on lands of the National Wildlife Refuge System (NWRS). Non-Federal oil and gas development refers to oil and gas activities associated with any private, State, or tribally owned mineral interest where the surface estate is administered by the Service as part of the Refuge System.

On February 24, 2014, we issued an advance notice of proposed rulemaking (79 FR 10080) to assist us in developing a proposed rule and announced our intent to prepare an EIS; the comment period for this document closed April 25, 2014. In response to requests we received, on June 9, 2014, we reopened the comment period until July 9, 2014 (79 FR 32903). During the two comment periods, we received almost 80,000 responses, mostly form letters, of which greater than 99 percent were in support of revising the existing regulations. We reviewed and considered substantive comments as we drafted the proposed rule. On December 11, 2015, we published a proposed rule and draft EIS (80 FR 77200). In response to the proposed rule and draft EIS, we received almost 40,000 responses, mostly form letters. All comments we received were carefully considered and, where appropriate, incorporated into the final rule and EIS. On August 22, 2016, we announced the availability of a final EIS, which evaluated the impacts of three alternatives (81 FR 56575):

The FEIS evaluates the impacts of the following three alternatives:

Alternative A, the no-action alternative, retains the current level of regulation and oversight of oil and gas activities by the Service.

Alternative B, the Service's selected alternative to implement, establishes a uniform process for when and how an operator must obtain an "operations permit" and ensures that all new operations on the NWRS are conducted under a suite of performance-based standards for avoiding or minimizing impacts to refuge resources or visitor uses. Alternative B also ensures that all operators on the NWRS successfully reclaim their area of operations once operations end. Under Alternative B, operations in Alaska would continue to be governed by title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh–410hh-5, 16 U.S.C. 3101 et seq., 43 U.S.C. 1601 et seq.), and the Department's implementing regulations and standards found at 43 CFR part 36.

Alternative C includes all the proposed changes in Alternative B, with these additions: Service jurisdiction would expand to regulate non-Federal oil and gas operations that occur on private surface within the boundary of a refuge (i.e., inholdings) and to operations on non-Federal surface locations that use directional drilling to access non-Federal oil and gas underneath the surface of a refuge; and performance-based standards and the permitting process would expand to actively regulate downhole operations such as well cementing, well casing, and well integrity testing.

Decision

The Service has determined that Alternative B, the agency-preferred alternative, best meets the agency's purpose and needs for revising regulations governing non-Federal oil and gas activities on the NWRS, because it most appropriately balances protection for refuge resources

and uses with the administrative and cost burden imposed on both the regulated community and the Service. Therefore, it is the Service's decision to implement Alternative B, and make final the rule defined by that alternative for managing non-Federal oil and gas activities on the NWRs. This decision is based on the information contained in the final EIS. The ROD was prepared pursuant to the requirements of the Council on Environmental Quality regulations for implementing NEPA at 40 CFR Parts 1500-1508 and the Department of the Interior's implementing regulations.

Authority

We issue this document under the authority of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) and the Department of the Interior regulations that implement NEPA (part 46 of title 43 of the Code of Federal Regulations) and the National Wildlife Refuge System Administration Act, as amended by the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd et seq.).

Dated: __October 5, 2016_____.

Michael J. Bean

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

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